

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Division regarding a medical fee dispute between the requestor and the respondent named above. This dispute was received on 5-14-03.

## I. DISPUTE

Whether there should be additional reimbursement for date of service 11-15-02 for Durable Medical Equipment, HCPCS codes E0753 (Implantable Neurostimulator Electrodes Per group of four leads) and E0751 (Implantable Pulse Generator and Programmer).

## II. FINDINGS

- a. Based on Commission Rule 133.307(d)(1-2), the only date of service eligible for review is 11-15-02.
- b. The Provider billed the insurance carrier \$27,370.00.
- c. The insurance carrier paid a total reimbursement of \$9,512.56.
- d. The insurance carrier based their reimbursement based upon, "M – Payment recommendation based on fair and reasonable which FORTE has defined as the Texas 2002 Medicare DME Fee Schedule plus 20%."
- e. Per the TWCC-60 the total amount in dispute is \$17,857.44.
- f. The requestor wrote, "We are in receipt of your payment of \$10,857.86 for the above patient and date of service. At this time we respectfully request a reconsideration of this payment amount and additional reimbursement. The EOB received indicates that FORTE has made these recommendation based on the Texas Medicare 2002 Fee schedule. Of note, the codes currently accepted by Texas Workers Compensation are **no longer valid Medicare codes**. It is therefore not reasonable to make determinations for reimbursement based a fee schedule that does not exist. Furthermore, the fee schedule for the current Medicare codes is much higher than what is represented by the recommendation of Forte."
- g. The respondent did not submit a response to the request for medical dispute resolution.
- h. Per Durable Medical Equipment Ground Rule (IX)(C), "The provider shall use the HCFA-1500 Form for billing. Invoices should be billed at the provider's usual and customary rate. Reimbursement shall be an amount pre-negotiated between the provider and carrier or if there is no pre-negotiated amount, the fair and reasonable rate. A fair and reasonable reimbursement shall be the same as the fees set for the "D" codes in the 1991 Medical Fee Guideline."

- i. A review of the 1991 Medical Fee Guideline, does not contain Implantable Neurostimulator Electrodes Per group of four leads and Implantable Pulse Generator and Programmer. The documentation did not contain a pre-negotiated amount between the provider and carrier; therefore, the appropriate reimbursement is a fair and reasonable rate.
- j. Section 413.011(b) states, "Guidelines for medical services fees must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines."
- k. The requestor did not submit supporting documentation that amount billed was fair and reasonable; therefore, reimbursement is not recommended.

### III. DECISION

Based upon the review of the disputed healthcare services within this request, the Division has determined that the requestor **is not** entitled to additional reimbursement for HCPCS code(s) E0753 and E0751.

This Findings and Decision is hereby issued this 11<sup>th</sup> day of February, 2005.

Elizabeth Pickle  
Medical Dispute Resolution Officer  
Medical Review Division